

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD

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6 IN THE MATTER OF: :

7 Eagle N Exile, LLC :

8 t/a DC Eagle :

9 3701 Benning Road NE : Fact Finding

10 License #93984, Retailer CT : (status)

11 ANC-7F :

12 Request to Extend Temporary :

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13  License :
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16 Wednesday, January 20, 2016

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18 Whereupon, the above-referenced matter
19 came on for hearing at the Alcoholic Beverage
20 Control Board, Reeves Center, 2000 14th Street,
21 N.W., Suite 400S, Washington, D.C. 20009.

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1 CHAIRPERSON:

2 DONOVAN W. ANDERSON, Presiding

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4 BOARD MEMBERS:

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MICHAEL SILVERSTEIN

8 JAMES SHORT

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10 ALSO PRESENT:

11 RISA HIRAR

12 TED CLEMENTS

13 on behalf of the Applicant

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1 P R O C E E D I N G S

2 [3:02 p.m.]

3 CHAIRMAN ANDERSON: We're back on the
4 agenda. We're back in session. The next case on
5 our agenda is a fact-finding hearing for DC
6 Eagle, license number 93984. Would the parties
7 please approach?

8 MS. HIRAR: Yes. Risa Hirar, represent
9 the license-holder, DC Eagle. And I'm here with
10 the principal of DC Eagle, Ted Clements.

11 CHAIRMAN ANDERSON: You also need to
12 spell your name for him, please, and there's a
13 sign-in sheet there.

14 MS. HIRAR: Oh, okay. First name is R-i-
15 s-a. Last name is H-i-r-a-r. I'll have Ted
16 spell his.

17 MR. CLEMENTS: Ted Clements, or Theodore
18 Clements. T-h-e-o-d-o-r-e C-l-e-m-e-n-t-s.

19 CHAIRMAN ANDERSON: All right. You can
20 have a seat.

21 [A telephone ring tone was heard.]

22 MS. HIRAR: I am so sorry. I thought I

1 turned it off.

2 [Laughter.]

3 CHAIRMAN ANDERSON: Well, better now than
4 -- you can have a seat, sir.

5 MR. CLEMENTS: Okay.

6 [Pause.]

7 CHAIRMAN ANDERSON: And I'm making sure
8 that mine is off, too. So thank you for that.

9 MS. HIRAR: I'm so sorry.

10 CHAIRMAN ANDERSON: It's all right. No,
11 no, it's better at the beginning than during the
12 middle, in the middle of us speaking.

13 This is a fact-finding hearing, and I
14 think that -- this started before I was on the
15 board. So I'm at a loss. But it's my
16 understanding that you, the establishment does
17 not have a full license. So there's a temporary
18 license that the establishment has and asking for
19 extension.

20 And I think the board is trying to get
21 some clarification what is going on and where is
22 the establishment in getting a certificate of

1 occupancy from DCRA. And so, the board can make
2 a decision on a full license. And so, maybe you
3 can just give us an update of where we are.

4 MS. HIRAR: Sure. The big overview is
5 that my client has encountered unexpected
6 construction delays, which Mr. Clements will
7 detail before the board. So we had projected
8 that certain milestones would be reached. But
9 due to logistics that's happening with the
10 general contractor or subcontractors,
11 unfortunately, the construction process has,
12 unfortunately, been delayed due to surprises or
13 changes.

14 So I'll have Mr. Clements explain in a
15 little bit more detail to the board so that you
16 can understand the reason for the various
17 requests for extensions on the temporary ABC
18 license. And if I may, I will turn the
19 microphone to Mr. Clements.

20 CHAIRMAN ANDERSON: Sure. Yes. Yes.

21 MR. CLEMENTS: Hello. We hired --

22 CHAIRMAN ANDERSON: Just state your name

1 again for the record, please, sir.

2 MR. CLEMENTS: My name is Ted Clements.

3 CHAIRMAN ANDERSON: Okay.

4 MR. CLEMENTS: Managing member of Eagle
5 in Exile, operating as DC Eagle. We hired K4
6 [phonetic] contractors as our general contractor.
7 And they have performed less than stellar. They
8 had so many problems that they fired their
9 project manager, their electrician, and their
10 plumber due to the way they handled our project.

11 We have addressed the plumbing, the
12 electric, the roof, the fire suppression, the
13 alarm system, and the masonry directly. And
14 we're waiting -- a week from today we're going in
15 for our fire suppression system inspection, and
16 as soon as that's completed, we should be able to
17 receive a permanent certificate of occupancy for
18 the second and first floor.

19 The third floor should be completed
20 within -- we're waiting on the elevator. And
21 that should be ready for inspection within 45 to
22 60 days, is the projected time. And then that

1 should be completed and going for a permanent
2 certificate of occupancy at that time for that
3 floor.

4 MS. HIRAR: Board members, if I may --

5 CHAIRMAN ANDERSON: Yes.

6 MS. HIRAR: I'd like to clarify that the
7 temporary certificate of occupancy for this
8 location is April 21st, 2016. And one of our
9 requests before the board is to have the
10 temporary ABC license expiration date consistent
11 with the certificate of occupancy.

12 CHAIRMAN ANDERSON: That's on the board's
13 agenda. So we will be making a decision on that
14 issue.

15 MS. HIRAR: Thank you very much.

16 CHAIRMAN ANDERSON: And we will be making
17 a decision on that issue today.

18 MS. HIRAR: Thank you.

19 CHAIRMAN ANDERSON: Yes. You have -- do
20 you have anything else you want to say before I
21 ask if the board members ask questions? Because
22 I know they're going to have a lot of questions.

1 MS. HIRAR: Sure. This is basically,
2 we're open for questions. So we wanted to give
3 the board a overview of what's happening, and
4 specific questions we'll be happy to answer.

5 CHAIRMAN ANDERSON: All right. You, Mr.
6 Alberti?

7 MR. ALBERTI: No, I don't think so.

8 CHAIRMAN ANDERSON: Mr. Short?

9 MR. SHORT: Good morning, Mr. Clements,
10 or good afternoon; forgive me. Last time you
11 were here, and I know you remember Mr. Pasqual
12 and I had several conversations about the
13 construction.

14 MR. CLEMENTS: Yes.

15 MR. SHORT: And we knew it was going to
16 be kind of hard because that's a very old
17 building, and in your location to the railroad
18 tracks, and off-street parking. And then you had
19 a problem with the other owner.

20 So, how -- your business is open now,
21 right, correct?

22 MR. CLEMENTS: Yes, it is. Only the top

1 floor only.

2 MR. SHORT: Second floor only. So
3 there's construction going on on the first floor?

4 MR. CLEMENTS: Only the fire suppression
5 is -- in the pump room is being -- it's going on
6 at this point.

7 MR. SHORT: So you don't have to go
8 through any special separation between the first
9 floor, second floor. So people just come in and
10 walk right up to the second floor? Is that what
11 they do?

12 MR. CLEMENTS: You come in on the second
13 floor directly.

14 MR. SHORT: Okay.

15 MR. CLEMENTS: When you walk around back,
16 it's like a split-level. So when you walk around
17 back, you're already on the second floor.

18 MR. SHORT: Okay. I'm familiar, yeah. A
19 platform used to be back there, right?

20 MR. CLEMENTS: Pardon me?

21 MR. SHORT: Not a problem. I work in the
22 neighborhood, so I'd know that building quite

1 well.

2 MR. CLEMENTS: Okay.

3 MR. SHORT: I used to go to work to the
4 junior high school. We had to come by there
5 every day.

6 But at any rate, we'd like -- as I said
7 before, we'd really like to have that business in
8 Ward 7, and we'd like to see it up and going. We
9 got a lot of new buildings coming up, a lot of
10 things planned for that downtown Ward 7, near
11 Benning Road and Minnesota. So, you're a great
12 addition, and I know the community really enjoyed
13 it.

14 But public safety didn't come to mind.
15 So how long will it be before you are finished
16 with all the construction? I know you said DCR
17 is going to do one thing, and the fire
18 suppression is going to do another thing. What
19 is the date, if you could walk us through some
20 dates?

21 MR. CLEMENTS: We're ready for the fire
22 pump boys to deliver today. It should be

1 completed, installed within five days. The fire
2 inspection is scheduled for a week from today.

3 And then the --

4 MR. SHORT: That's sprinklers, stand,
5 pipe?

6 MR. CLEMENTS: All the pipes already in,
7 everything.

8 MR. SHORT: Okay. Good, good, good.
9 Okay.

10 MR. CLEMENTS: We have more than enough
11 doors opened. We have three five-foot doors
12 already ready for, in case of an emergency,
13 people can get out. That's the main thing for
14 the second and first floor.

15 All the other construction is done. All
16 the plumbing is done. All the electric is done.
17 A new roof has been on. The alarm system is up
18 and ready; it's working. That's it.

19 MR. SHORT: So what date? What would be
20 your -- I see April when -- your attorney was
21 mentioning an April date. What was the April
22 date you were mentioning?

1 MS. HIRAR: April 21st.

2 MR. SHORT: So everything should --

3 MR. CLEMENTS: Everything should be
4 completed within 45 to 60 days. The last thing
5 besides the fire suppression is the elevator for
6 ADA compliance. And that's strictly for the
7 third floor. The first and second floor are
8 already ADA compliant. We're just waiting on the
9 pump to be hooked up, which was delivered today
10 at noon.

11 MR. SHORT: Okay. Great answers. That's
12 all I have, Mr. Chair. Great answers. Thank
13 you.

14 CHAIRMAN ANDERSON: Ms. Miller.

15 MS. MILLER: No questions. No questions.

16 CHAIRMAN ANDERSON: Mr. Silverstein?

17 MR. SILVERSTEIN: No, I'm fine.

18 CHAIRMAN ANDERSON: What's the consensus
19 of the board, that no further action? Or should
20 we --

21 MR. ALBERTI: Well, with respect to the
22 agenda item, I think we should certainly make the

1 temporary license expiration consistent with the
2 DCRA. I mean, if at that point construction
3 isn't done, we'll just have to reconsider based
4 on what we've heard today.

5 CHAIRMAN ANDERSON: Yeah.

6 MR. ALBERTI: Whether or not to grant
7 another temporary. I don't think we're at that
8 juncture just yet.

9 CHAIRMAN ANDERSON: Right. Right.

10 MS. MILLER: Mr. Chairman?

11 CHAIRMAN ANDERSON: Yes?

12 MS. MILLER: Is that the exact question
13 that's on the agenda? I mean, I have no issue
14 with just ruling on that at this point. I doubt
15 that DC goes on the agenda.

16 CHAIRMAN ANDERSON: They're on the agenda
17 for us to vote on the issue for the -- to extend
18 the license, which we're going to vote on that at
19 the end of this, prior to the close of session
20 today.

21 But I'm just saying as far as the fact-
22 finding, there's just the consensus of the board

1 that this would be no further action.

2 MS. MILLER: Right. Um-hm.

3 [Cross-talk.]

4 CHAIRMAN ANDERSON: So the consensus of
5 the board is that there is no further action, and
6 you will get a decision on the larger issue. And
7 I guess if you hang around, you will hear what
8 the decision is. But we'll go on the record and
9 issue that decision.

10 So, hearing nothing, thank you for your
11 presentation.

12 MR. SILVERSTEIN: Mr. Chair.

13 CHAIRMAN ANDERSON: Yes.

14 MR. SILVERSTEIN: I'd just like to say
15 thank you for being here, being so up-front about
16 this. We know that this has been difficult for
17 you, and we're kind of -- I think everybody in
18 this room is kind of tired of this. And we'd
19 sure like to get it done as quickly as we can.

20 It's costing you heartache, it's costing
21 you money. And the sooner it gets done, the
22 better for all of us. As soon as you get the

1 permanent certificate of occupancy, then we can
2 move on our part.

3 MR. CLEMENTS: Thank you.

4 MR. SILVERSTEIN: Thank you. Good luck,
5 and stay warm.

6 CHAIRMAN ANDERSON: And while you're
7 here, let me do something that -- so at least
8 you'll get an answer.

9 [Laughter.]

10 [Whereupon, at 3:12 p.m., the
11 above-entitled matter concluded.]

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